

Memorandum



Date: June 6, 2006

To: Honorable Chairman Joe A. Martinez
and Members Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 8(Q)(1)(B)

Subject: Resolution Authorizing Retroactive Utilization of a Portion of Existing \$3.7 Million of Sales Tax and Other Project Savings (Plus Future Savings) From the Port of Miami Cruise Terminals D&E Project for Costs of Changed Work, Cost Overruns and Delay Related Costs; and Authorizing County Manager to Increase Contract Time and/or Project Schedule by an Amount not to Exceed 12 Months

RECOMMENDATION

It is recommended that the Board approve the accompanying resolution authorizing retroactive utilization of a portion of existing \$3.7 million of sales tax and other project savings (plus future savings) from the Port of Miami Cruise Terminals D&E Project for costs of changed work, cost overruns and delay related costs; and authorizing County Manager to increase contract time and/or project schedule by an amount not to exceed 12 months.

BACKGROUND

On May 6, 2003, the Board approved Resolution No. R-502-03, which among other things, authorized the negotiation of an agreement with Chase Construction (Chase) being the highest ranked responsive and responsible proposer under the County's Request for Qualifications (RFQ) for the construction of new Seaport Department Cruise Terminals D & E (the Project). The Project was contracted on the basis of Construction Manager (CM) at Risk. Under the terms of the executed CM contract, Chase submitted its Initial Guaranteed Maximum Price (IGMP) of \$54,849,132 (based on 30% - 50% design documents), which includes hard costs, CM fees, and general conditions. Total cost for the Project contained in the IGMP Contract, which included a contingency allowance of approximately \$6.3 million, permit allowance, pre-construction services, and inspector general and private inspector general allocations, is \$61,995,286.

This CM Contract provides for a contingency allowance and an owner's change allowance. The contingency allowance was set by the Seaport Department ("Department") and the Office of Capital Improvements ("OCI") at \$6,290,026, or 10.15% of the original contract amount, to implement new security requirements and additive alternates deemed beneficial to the Port and its terminal users. On November 17, 2003, OCI notified the Department of the provisions in Code Section 2-8.1(h) regarding the contingency percentage limitation (10% for professional services and 5% for construction). The project contingency amount also took into consideration that this project was put out for bid prior to the availability of completed construction drawings, when the availability of then-existing project construction documents were approximately 30% - 50% complete. Because the initial 10.15% contingency allowance exceeded the 5% threshold set forth in Code Section 2-8.1(h), the County Manager's advertisement recommendation should have included specific information defining and substantiating the proposed utilization of such 10.15% contingency allowance. This information was not included then because, at the time of advertisement, it was not anticipated that the allowable contingency would be exceeded. During contract negotiations, which followed the date of advertising by several months, the negotiations committee set the contingency at the 10.15% level.

Exhibit A attached hereto includes a list of project items and expenses for which the contingency allowance has been expended. The terminals have gone under extensive re-design resulting from consolidation of Customs and Border Protection facilities, combining of the dual lobby configuration into a single larger lobby configuration, relocation of FP&L vaults, relocation of mechanical equipment facilities from a central location into each independent terminal, and other scope related issues mentioned below.

As shown in the attached Exhibit, virtually all of the \$6,290,026 has now been spent on Additive Alternate No. 4 (lighting fixtures); added related scope (additional passenger gantry bridge and airline check-in facility); additional lime rock, concrete, steel, and auger cast piles resulting from increases to the buildings' size and unanticipated construction of two building pads; and unforeseen costs (additional fire sprinkler alteration, insurance premiums, pre-construction services) and re-design & permitting costs.

On February 3, 2004, the Board approved Resolution No. R-175-04, which among other things, waived formal bid procedures and allowed the County to make direct purchases of building materials, supplies, and equipment in connection with the Project. The Department has taken advantage of this procedure and has, to date, issued purchase orders for Owner Direct Purchases (ODP's) totaling \$9,797,053; achieving approximately \$600,000 in sales tax savings. Upon completion of the Project, we will be bringing for the Board's consideration a deductive final change order, reducing the contract sum by the amount of all ODPs.

Since the Project was contracted on the basis of "Construction Manager at Risk", the construction manager (Chase) participates in the negotiation of sub-contracts and value engineering. The Agreement provides that to the extent the CM is able to buy out portions of the work at prices less than those contained in the original IGMP, the County and Chase will split any realized savings at the rate of 75% (County) and 25% (Chase). This process has so far realized approximately \$3.1 million of savings for the County. Under the CM Agreement, the owner's change allowance account is an account which starts with a \$0 balance, but may increase during the course of the Project if savings are realized via value engineering, CM buying out elements of the work for less than those amounts enumerated in the IGMP, or ODPs. The Agreement provides that funds in this owner's change allowance account may be utilized for owner's changes in the work. To date, this owner's change allowance account has increased to approximately \$3.7 million from realized project savings.

This Project has been impacted by changes in design and scope modifications, which have caused the completion of the Project to be delayed; thus necessitating a twelve (12) month time extension to complete the work. These delays arise from the following re-design and re-permitting needs:

1. Re-Design and Re-Permitting of Drawings – Construction schedule was delayed due to consolidation of Customs Border Protection functions; relocation of the Central FP&L vault into two vaults – one at each terminal; addition of generator and switch gear rooms; tenant-requested airline check-in facilities; and first floor expansion to accommodate the aforementioned modifications. Delay period extending from July/04 to Jan/05.
2. FP&L Vault Re-Design – The initial design included a centrally located vault, mechanical equipment facility and provisions screening facility between the terminals. Through value engineering the vault and mechanical equipment facilities were located separately into each terminal. The original design was completed without FPL specifications due to time constraints. Once Specifications were received the A/E made minor revisions and submitted documents to Port Management for review and approval. It was not until the project was under construction and FPL was on the field that any comments on the design were received. There are two issues here: the first is that FPL decided to rearrange the Power feed into the building causing Doors, Louvers, sump pumps and other minor changes to be made; the second issue is that FPL's specifications require 8" concrete walls and 6" concrete roof structure. The design had been completed with the systems used in the main building 8" concrete block walls (insulation filled) and 10" precast concrete hollow core slabs with a 2" topping. FPL specifications do not specify "solid concrete" walls or roofs. During the installation of FPL's equipment FPL had an issue with the design because of the type of fasteners they were using to attach their equipment. Since certain areas of the walls and roof were hollow the anchors FPL wanted to use would not work

and they were neither willing to change anchors, use unistrut supports or other suggestions provided by the A/E or the CM. Subsequently they refused to proceed with the equipment installation. The A/E and FP&L maintain their interpretations as being correct. A Change Authorization in the amount of \$55,000 per terminal is on hold pending use of savings. The construction delay period extends from May/05 to Dec/05. Inability to use funds realized through savings has also caused a delay that extends from Dec/05 to present. Should this item be approved, funds achieved through savings will be utilized to reinforce the vault's roof structure.

3. Water Connections – Delays in negotiating an agreement with WASD for the new maintenance building water connection prevented subcontractors from testing their installations (mechanical, plumbing, and sprinklers) by using traditional means. This has also prevented final tests required by the Building Department of mechanical and plumbing systems. Delay period extends from Dec/05 to present.
4. Fire Hydrants – This was to be done under another construction program (Haskell contract); however, due to scheduling conflicts between Chase's and Haskell's work programs, it was dropped from the Haskell program. The fire hydrant requirement as well as the water connection are both impacted by the pending agreement between the Seaport and WASD as mentioned above. The design drawings are being submitted for permitting. Delay period extends from Jan/06 until plans are permitted.
5. Lobby Roof Re-Design – Due to the complexity of the roofing system, difficulties were encountered in meeting the code requirements and providing a NOA for the roofing material. Because of the added cost, the Department did not want a one time NOA but rather a currently approved system. Consequently several alternatives were considered and design revisions were made to meet both code and NOA requirements. Design delay period extends from (stop work order) April/05 to Dec/05. Funding delay period extends from Dec/05 to present. Upon Board approval, funds achieved through savings will be utilized to provide a BUR with a current NOA to meet the wind load pressure.
6. Passenger Bridge Widening – Seaport considered a re-design of the passenger bridge that was requested by the tenant (Carnival Cruise Line). This was later rescinded due to structural complications, cost feasibility, and potential permitting delays. Construction delay period extending from (stop work order) Jun/05 to Dec/05.
7. Authorization to Use Owner's Savings – The use of the funds is pending County Commission approval as described in this agenda item. The resulting funding delays are noted in the items above and affect items in Exhibit B, except where asterisks identify expended funds.

In order to complete the scope of work the aforementioned issues and the items listed in Exhibit B have necessitated a twelve (12) month extension to the contract time. Additional costs for the extended general conditions associated with the time extension will not exceed \$1,304,510 as listed in the Exhibit. This cost is based on a 360 day extension @ \$3,574 per day (or not to exceed \$4,000 per day of provable costs per contract terms).

It should be noted that certain change authorizations and insurance costs were charged and paid from the owner's change allowance account. This was done in order to maintain various insurance coverages that would have otherwise expired and also to pay for construction work that had been completed for safety reasons or to avoid work stoppage and potential delay claims. Therefore, for these items, the Department is seeking retroactive authorization to expend previously realized savings. These items have been identified in Exhibit B with an asterisk. Furthermore, the Department is requesting that it be permitted to use the owner's change allowance described above as well as any future realized savings to pay for the above-referenced extra and unforeseen project costs identified on Exhibit B as well as any further extra or unforeseen project costs that may arise, which are not the responsibility of the CM.

Section 2-8.1(h) of the Code (Ordinance 00-65) requires the County Manager to inform the Board when the amount of a previously reported construction contract contingency allowance has been exceeded, as it is in this case. Should the Board approve this item, the sum of funds available in both the contingency and

owner's change allowance accounts will total \$9,990,026, plus any other savings achieved throughout the remainder of the Project. Attached for the Board's review are Exhibit "A" and Exhibit "B" which list the actual project-to-date utilization of the contingency allowance and owner's change allowance accounts respectively, on the Project. Pursuant to section 2-8.1(h) of the Code, a copy of these reports has also been furnished to the Director of Procurement Management and the Director of Audit and Management Services.

Fiscal Impact

The time extension associated with this item will cost the County a not to exceed amount of general conditions costs paid to the CM of \$1,304,510.



Assistant County Manager

5/8/06

Date



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: June 6, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 8(Q)(1)(B)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Agenda Item No. 8(Q)(1)(B)

Veto _____

06-06-06

Override _____

RESOLUTION NO. _____

RESOLUTION AUTHORIZING RETROACTIVE
UTILIZATION OF A PORTION OF EXISTING \$3.7 MILLION
OF SALES TAX AND OTHER PROJECT SAVINGS (PLUS
FUTURE SAVINGS) FROM THE PORT OF MIAMI CRUISE
TERMINALS D&E PROJECT FOR COSTS OF CHANGED
WORK, COST OVERRUNS AND DELAY RELATED COSTS;
AND AUTHORIZING COUNTY MANAGER TO INCREASE
CONTRACT TIME AND/OR PROJECT SCHEDULE BY AN
AMOUNT NOT TO EXCEED 12 MONTHS

WHEREAS, this Board desires to accomplish the purposes outlined in the
accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board
authorizes the retroactive utilization of a portion of existing \$3.7 million of sales tax and
other project savings (plus future savings) from the Port of Miami Cruise Terminals D&E
Project for costs of changed work, cost overruns and delay related costs; and authorizes
the County Manager to increase contract time and/or project schedule by an amount not
to exceed 12 months.

The foregoing resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Dennis C. Moss, Vice-Chairman	
Bruno A. Barreiro	Jose "Pepe" Diaz
Audrey M. Edmonson	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Dorrian D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this
6th day of June, 2006. This Resolution and contract, if not vetoed, shall become effective
in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. JMM

Jess M. McCarty

Exhibit A
Construction Manager at Risk for Deepwater Cruise Terminals
C.G. Chase Construction Management Inc.

Contractual Contingency Allowance \$6,290,026.00 and Expenditures Drawdown

		Original Contract Contingency Allowance	\$ 6,290,026.00
CA = Change Authorization			
	Description	Approved CA	Cumulative Drawdown
CA #1 (D&E)	Steel, Lime Rock, Concrete Price Increase (2004 market) Switch Gear Room, Emergency Generators, FP&L Vaults, Building Size Increase and Scope	\$ 2,031,767.00	\$ 4,258,259.00
CA #1 (D&E)	Builders Risk - Additional Time Ext. Dec / 03 through Dec / 05	\$ 330,231.42	\$ 3,928,027.58
CA #1 (D&E)	Extended Pre-Con Services	\$ 300,380.00	\$ 3,627,647.58
CA #1 (D&E)	Additional GL Insurance (Pollution) Dec / 03 through Dec / 05	\$ 56,173.34	\$ 3,571,474.24
CA #1 (D&E)	Extended GL Ins. Dec / 03 through Dec / 05	\$ 340,257.60	\$ 3,231,216.64
CA - D #1	Gantry Spec Modification to 2002 - Upgrade	\$ 233,786.17	\$ 2,997,430.47
CA - E #1	New FMT Passenger Gantry	\$ 1,624,888.28	\$ 1,372,542.19
CA - D-E #2	Additional Concrete & Reinforcement - for revision 4 drawing (update)CBP Revisions, Conversion to Single Lobby, and Airline Check-in	\$ 159,007.15	\$ 1,213,535.04
CA - D-E #3	Added Auger Cast Piles for revision 4 drawing (update) Design Revisionsand Fist floor Expansion	\$ 21,931.08	\$ 1,191,603.96
CA - D-E #4	Additional FPL Duct Bank from Manhole to Vault	\$ 47,741.60	\$ 1,143,862.36
CA - D-E #5	Add Alternate #4-Light Fixtures	\$ 1,033,108.00	\$ 110,754.36
CA - D-E #7	Fire Sprinkler System - Global Risk Requirement (insurance upgrade)	\$ 56,696.36	\$ 54,058.00
CA - D-E #13	Additional Fire Sprinkler System - Global Risk Requirement (insurance upgrade)	\$ 50,482.62	\$ 3,575.38

Exhibit B
Construction Manager at Risk for Deepwater Cruise Terminals
C.G. Chase Construction Management Inc.

Project Savings \$3,700,000.00 and Expenditures Drawdown

180 Day Project Savings	\$ 3,100,000.00
Tax Savings (Owner Direct Purchases)	\$ 600,000.00
Total Owner's Change Allowance	\$ 3,700,000.00

CA = Change Authorization

Description	Pending CA	Approved CA	Cumulative Drawdown
CA - D-E #8 Add Alternate #3-Data/Telecommunications		\$ 205,752.96	\$ 3,494,247.04 *
CA - D-E #9 Add Alternate #8-Security System		\$ 169,174.66	\$ 3,325,072.38 *
CA - D-E #10 Lobby Cold Cathode Lighting (Value Engineering)		\$ (185,000.00)	\$ 3,510,072.38
CA - D-E #12 Glass Fins at Main Entrance Lobby Room # 100 (Value Engineering)		\$ (149,700.00)	\$ 3,659,772.38
CA - D-E #14-R1 Rigid Frame Column Support Angle for Hollow Core Bearing Revised		\$ 29,398.53	\$ 3,630,373.85
CA - D-E #15-R1 Escalator Support Revised		\$ 13,788.42	\$ 3,616,585.43
CA - D-E #16 Added Beams for Stair Reinforcement		\$ 28,858.10	\$ 3,587,727.33 *
CA - D-E #17-R1 Beam Reinforcing and Additional Bracing Revised	\$ 29,497.13		\$ 3,558,230.20
CA - D-E #18 Added Steel at the Dock Threshold (safety device)		\$ 5,302.64	\$ 3,552,927.56
CA - D-E #19 Added Steel to Remediate Slope Discrepancy in concrete slabs		\$ 4,927.96	\$ 3,547,999.60 *
CA - D-E #20 Removing the Wind Frame Kicker in Conflict with Escalator #2		\$ 6,550.52	\$ 3,541,449.08 *
CA - D-E #21 Added Steel to Reinforce the W16x31 (Beam)		\$ 12,546.26	\$ 3,528,902.82 *
CA - D-E #22 Additional Channel Required for So. Side of Passenger Bridge		\$ 27,033.94	\$ 3,501,868.88
CA - D-E #23-R1 Additional Structural Steel for Cooling Tower Support		\$ 68,134.40	\$ 3,433,734.48
CA - D-E #24 Additional Deck Support Angle and Deck for Elevator Walkways		\$ 4,044.74	\$ 3,429,689.74 *
CA - D-E #25-R1 Additional Steel for Electrical Room #231 Roof		\$ 36,003.88	\$ 3,393,685.86
CA - D-E #26 Removing/Replacing Originally Designed Steel Bracing for bridge rigidity		\$ 29,447.30	\$ 3,364,238.56 *
CA - D-E #27 Additional Steel for the High Roof Corner Condition		\$ 15,019.97	\$ 3,349,218.59 *
CA - D-E #28 Solid Plastic Floor Mounted Toilet Compartments		\$ 5,429.60	\$ 3,343,788.99 *
CA - D-E #29 Additional Steel for Revision 4		\$ 93,732.00	\$ 3,250,056.99 *
CA - D-E #30 Modification to Concrete Deck Roofing System		\$ 215,981.16	\$ 3,034,075.83 *
CA - D-E #31 Addition of Strainers at Air Handler Units plumbing Pipes	\$ 27,954.96		\$ 3,006,120.87
CA - D-E #32 Addition of Aluminum Water Pump Stands		\$ 16,200.00	\$ 2,989,920.87
CA - D-E #33-R2 Entrance Lobby Roof BUR Roofing Terminal	\$ 68,671.06		\$ 2,921,249.81
CA - D-E #34 Redesign Plate for concrete connections		\$ 4,009.84	\$ 2,917,239.97
CA - D-E #35 Cayman Credit Amount for Millwork Scope of Work (Value Engineering)		\$ (12,764.62)	\$ 2,930,004.59
CA - D-E #36 Furnish and Install Additional Bent Plate (Closure piece at bridge)		\$ 25,482.24	\$ 2,904,522.35
CA - D-E #37 Additional Steel for End Conditions Along Gridline E		\$ 27,188.06	\$ 2,877,334.29
CA - D-E #38 Additional Steel for Window System		\$ 24,041.68	\$ 2,853,292.61
CA - D-E #39 Furnish and Install Structural Steel for FPL Vault		\$ 17,686.98	\$ 2,835,605.63
CA - D-E #40 Removal of Wall Coverings (Value Engineering)		\$ (164,050.00)	\$ 2,999,655.63
CA - D-E #41-R1 FPL Vault Re-Design as Required by FPL		\$ 116,016.82	\$ 2,883,638.81 *
CA - D-E #42-R1 Concrete Cantilevered Slab Remedial Fix		\$ 128,803.76	\$ 2,754,835.05 *
CA - D-E #43 Stainless Steel Base Cladding Credit at Glass Railing of Psngr Bridge	\$ (2,592.00)		\$ 2,757,427.05
CA - D-E #44 Canvas Canopy Awning Credit		\$ (16,000.00)	\$ 2,773,427.05
CA - D-E #45 Installation of Concrete Column at Column Line 1 and Gridline C		\$ 2,537.62	\$ 2,770,889.43 *
CA - D-E #46 Replacement of Materials of Materials Damaged by Hurricane Wilma	\$ 58,147.79		\$ 2,712,741.64
CA - D-E #47 Hanging AHU Units in Accordance to Field Advice 100	\$ 42,261.73		\$ 2,670,479.91
CA - D-E #51 Additional Steel Added within Revision 4 Drawings		\$ 167,628.09	\$ 2,502,851.82
CA - D-E #53 Chiller Parapet Railing - FA 105R	\$ 26,827.90		\$ 2,476,023.92
CA - D-E #55 Fix Damaged Fencing and Guard Service	\$ 23,504.71		\$ 2,452,519.21
CA - D-E #58 Acoustical Ceiling Scope Modifications & Deletions	\$ (354,000.00)		\$ 2,806,519.21
CA - D-E #59 Metal Column Cover Credit	\$ (122,632.00)		\$ 2,929,151.21
CA - D-E #60 Security Grills	\$ 28,364.90		\$ 2,900,786.31
CA - D-E #64 FPL Vault Hollow Core Remedial Work as per FA 113	\$ 110,653.94		\$ 2,790,132.37
CA - D-E #65 Toilet Accessories Credit	\$ (10,421.00)		\$ 2,800,553.37
CA - D-E #67 Addition of Room #160 at Holds Customs Area	\$ 26,640.82		\$ 2,773,912.55
TBD Installation of Overhead Support Angle	\$ 22,404.22		\$ 2,751,508.33
TBD Additional General Liability Coverage through 11-06	\$ 340,230.53		\$ 2,411,277.80 *
TBD Additional Builders Risk Coverage through 07-06	\$ 349,936.00		\$ 2,061,341.80 *
TBD Additional Terrorism Coverage	\$ 10,525.00		\$ 2,050,816.80 *
TBD Additional Builders Risk Coverage from 08-01-06 through 2-05-07	\$ 725,000.00		\$ 1,325,816.80
TBD Additional General Liability Coverage 11-06 through 2-05-07	\$ 120,000.00		\$ 1,205,816.80
TBD Remove Furniture Scope Credit (90%)	\$ (250,000.00)		\$ 1,455,816.80
TBD Extended General Conditions through 2-05-07	\$ 1,304,510.00		\$ 151,306.80

* = expended funds